

# EXHIBIT 1

**Exhibit 1**

## Case Information

DC-21-00892 | LAVERNE FIELDS vs. THE KROGERS CO

Case Number

DC-21-00892

File Date

01/21/2021

Court

191st District Court

Case Type

PROPERTY

Judicial Officer

SLAUGHTER, GENA

Case Status

OPEN

## Party

PLAINTIFF

FIELDS, LAVERNE

Active Attorneys ▼

Lead Attorney

CATO-MILLER, ANNETTE

Retained

DEFENDANT

THE KROGERS CO

Aliases

AKA KROGER TEXAS L.P.

Address

SERVE ITS REGISTERED AGENT, CORPORATION SERVICE  
COMPANY

211 E. 7TH STREET, SUITE 620

AUSTIN TX 78701-3218

Active Attorneys ▼

Lead Attorney

BRISCOE, B KYLE

Retained

## Events and Hearings

01/21/2021 NEW CASE FILED (OCA) - CIVIL

01/21/2021 ORIGINAL PETITION ▼

ORIGINAL PETITION

01/21/2021 ISSUE CITATION ▼

CITATION- THE KROGERS CO

01/27/2021 CITATION ▼

Unserved

Anticipated Server

ESERVE

Anticipated Method

Comment

THE KROGERS CO

02/05/2021 ORIGINAL ANSWER - GENERAL DENIAL ▼

ORIGINAL ANSWER - THE KROGERS CO AKA KROGER TEXAS L.P.

## Financial

FIELDS, LAVERNE

Total Financial Assessment

\$300.00

Total Payments and Credits

\$300.00

1/25/2021 Transaction Assessment

\$300.00

1/25/2021 CREDIT CARD - TEXFILE  
(DC)Receipt # 4559-2021-  
DCLKFIELDS,  
LAVERNE

(\$300.00)

## Documents

ORIGINAL PETITION

CITATION- THE KROGERS CO

ORIGINAL ANSWER - THE KROGERS CO AKA KROGER TEXAS L.P.

# EXHIBIT 2

**Exhibit 2**



## Notice of Service of Process

null / ALL  
Transmittal Number: 22686561  
Date Processed: 02/01/2021

**Primary Contact:** Venessa C. Wickline Gribble  
The Kroger Co.  
1014 Vine Street  
Cincinnati, OH 45202-1100

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<b>Entity:</b>	The Kroger Co. Entity ID Number 2171751
<b>Entity Served:</b>	The Krogers Co aka Kroger Texas L.P.
<b>Title of Action:</b>	Leverne Fields vs. The Krogers Co aka Kroger Texas L.P.
<b>Matter Name/ID:</b>	Leverne Fields vs. The Krogers Co aka Kroger Texas L.P. (10911125)
<b>Document(s) Type:</b>	Citation/Petition
<b>Nature of Action:</b>	Personal Injury
<b>Court/Agency:</b>	Dallas County District Court, TX
<b>Case/Reference No:</b>	DC-21-00892
<b>Jurisdiction Served:</b>	Texas
<b>Date Served on CSC:</b>	01/29/2021
<b>Answer or Appearance Due:</b>	10:00 am Monday next following the expiration of 20 days after service
<b>Originally Served On:</b>	CSC
<b>How Served:</b>	Personal Service
<b>Sender Information:</b>	Annette Cato-Miller State Bar No. 04011525 972-270-1896

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Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

**To avoid potential delay, please do not send your response to CSC**

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | [sop@cscglobal.com](mailto:sop@cscglobal.com)

Delivered this 28th day of Jan  
 TO DC-21-00892  
 CONSTABLE PRECINCT 1, TRAVIS CTY, TEXAS  
 BY [Signature]  
 DEPUTY

**FORM NO. 353-3 - CITATION  
 THE STATE OF TEXAS**

**RECEIVED**

21 JAN 28 PM 1:44

To: **THE KROGERS CO**  
**AKA KROGER TEXAS L.P.**  
**SERVE ITS REGISTERED AGENT CORPORATION SERVICE COMPANY**  
**211 E 7TH STREET SUITE 620**  
**AUSTIN TX 78701-3218**

TRAVIS COUNTY CONSTABLE  
 PCT 1

**GREETINGS:**

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org. Your answer should be addressed to the clerk of the **191st District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **LAVERNE FIELDS**

Filed in said Court **21st day of January, 2021** against

**THE KROGERS CO AKA KROGER TEXAS L.P.**

For Suit, said suit being numbered **DC-21-00892**, the nature of which demand is as follows:  
 Suit on **PROPERTY** etc. as shown on said petition **REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.  
 Given under my hand and the Seal of said Court at office this 27th day of January, 2021.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By Courtney Rutledge, Deputy  
 COURTNEY RUTLEDGE



**ESERVE**

**CITATION**

**DC-21-00892**

**LAVERNE FIELDS**  
**vs.**  
**THE KROGERS CO**

**ISSUED THIS**  
**27th day of January, 2021**

**FELICIA PITRE**  
 Clerk District Courts,  
 Dallas County, Texas

By: COURTNEY RUTLEDGE, Deputy

**Attorney for Plaintiff**  
**ANNETTE CATO-MILLER**  
 LAW OFFICES OF CATO-MILLER  
 DARENSBURG & ASSOCIATES  
 11882 GREENVILLE AVE STE B101  
 DALLAS TX 75243  
 972-270-1896

[litigation@cmdlawyers.net](mailto:litigation@cmdlawyers.net)

**DALLAS COUNTY**  
**SERVICE FEES**  
**NOT PAID**

## OFFICER'S RETURN

Case No. : DC-21-00892

Court No.191st District Court

Style: LAVERNE FIELDS

vs.

THE KROGERS CO

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_M. Executed at \_\_\_\_\_,  
within the County of \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_M. on the \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_\_, by delivering to the within named \_\_\_\_\_

each in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by  
me in serving such process was \_\_\_\_\_ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	\$ _____	_____
For mileage	\$ _____	of _____ County, _____
For Notary	\$ _____	By _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said \_\_\_\_\_ before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public \_\_\_\_\_ County \_\_\_\_\_

2021 FEB 08 PM 4:11  
PA

COMMERCIAL CREDIT ADVISORY  
LOWLY WIKOM  
GROWING 2021



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 50067103  
Status as of 1/27/2021 8:25 AM CST

**Case Contacts**

Name	BarNumber	Email	TimestampSubmitted	Status
ANNETTE CATO-MILLER		litigation@cmdlawyers.net	1/27/2021 8:24:08 AM	SENT

DC-21-00892

Cause No. \_\_\_\_\_

LEVERNE FIELDS	§	IN THE DISTRICT COURT
Plaintiff	§	
VS.	§	DALLAS COUNTY, TEXAS
	§	
THE KROGERS CO AKA	§	191st
KROGER TEXAS L.P.	§	
Defendant	§	_____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE**

Comes now LEVERNE FIELDS, hereinafter referred to as "Plaintiff," and makes and files this Original Petition and Request for Disclosure, complaining of and about, THE KROGER CO AKA KROGER TEXAS L.P. hereinafter referred to as "Defendant" or "Kroger," and for cause of action shows unto the Court the following:

**I.**

1. Pursuant to Rule 190.3, Tex. R. Civ. P., discovery shall be conducted under Level
2. The parties expect to submit an agreed docket control order for the orderly disposition of this litigation.

**II.**

3. Plaintiff is a resident of Dallas County, Texas. Plaintiff's social security is xxx-xx-9269. Plaintiff's drivers license number is [REDACTED].
4. Defendant THE KROGER CO AKA KROGER TEXAS L.P., is a foreign for profit corporation doing business in the State of Texas including Dallas County. Service of process regarding this lawsuit may be made on its registered agent of process:

Corporation Service Company  
d/b/a CSC- Lawyers Incorporation Service Company  
211 E. 7<sup>th</sup> Street, Suite 620  
Austin, Texas 78701-3218

**III. JURISDICTION AND VENUE**

5. The subject matter in controversy is within the jurisdictional limits of this court.

6. This court has jurisdiction over the parties because Plaintiff is a Texas resident.

7. Venue in Dallas County is proper in this cause under § 15.002(a)(1), Tex. Civ. Prac. & Rem. Code, because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

#### IV. FACTS

8. On February 9, 2019, Leverne Fields, while entering the Kroger grocery store #588 located at 9140 Forest Lane, Dallas, TX, was injured when the sliding entrance doors closed and slammed on her shoulders and head. The malfunction of the doors caused Leverne Fields to fall to the concrete floor where she hit her head again, and injuring her head, left side, including her left eye. She was rushed to the emergency room. Ms. Fields suffered a concussion and significant related injuries including; injury to her entire left side, lightheadedness, severe headaches, severe dizziness. These symptoms continued for months after the incident. Defendant KROGER, and their agents, servants, and employees knew or in the exercise of ordinary care, should have known the dangerous conditions with the entrance doors existed. This incident caused severe injuries to Plaintiff. Defendant owed Plaintiff the duties to exercise ordinary care and to protect and safeguard Plaintiff and others from unreasonably dangerous and unsafe conditions.

#### V. PREMISE CLAIM

9. Plaintiff was a business invitee and entered onto Defendant's premises in response to Defendant's invitation and for their mutual benefit. A condition on Defendant's premises posed an unreasonable risk. Defendant knew or reasonably should have known of the dangerous condition of the malfunction of the entrance door and that it created a dangerous condition for its business invitees. Kroger knew the entrance doors were malfunctioning because the same, exact set of doors malfunctioned on January 5, 2019 to another customer. This customer placed Kroger on notice. Defendant knew or should have known to keep the doors properly functioning so that they would not create a dangerous condition for its business invitees, i.e., slamming into customers such as the Plaintiff. Defendant had a duty to use ordinary care to ensure that the premises did not present a danger to Plaintiff. Defendant allowed or created the area to become dangerous and permitted such danger to exist. Plaintiff further alleges that the condition in the area had continued

for such a time that it would have been remedied if Defendant had exercised ordinary care in the maintenance and repair of the entrance doors. This duty includes the duty to inspect and the duty to warn or to cure. Defendant's breach of duty, both individually and severally, proximately caused injury to Plaintiff, which resulted in injury to her body, particularly her entire left side; as well as a concussion, severe dizziness, severe lightheadedness and severe headaches. As a result, Plaintiff has incurred medical bills and endured pain and suffering, for which she seeks damages within the jurisdictional limits of this Court.

#### VI. NEGLIGENCE

10. In the alternative, Plaintiff's injuries were the result of Defendant's ongoing negligence on the premises at the location of the injury, not a condition of the premises. Defendant's negligence includes that they allowed a dangerous condition (malfunctioning door) to occur and exist, and its failing to use ordinary care in the maintenance and repairing of the entrance doors in the store entryway. Defendant owed a legal duty to Plaintiff. Defendant breached the duty to Plaintiff by:

- a. Failing to maintain or repair the doors to the entry premises to a safe condition by inspecting the door for any dangerous conditions and repairing it; and
- b. Failing to make safe any latent defect or give warning of any defect.

Defendant's breach of duty proximately caused injury to Plaintiff, which resulted in injury to her body generally, including a concussion, head injury, and symptoms of the head injury as described herein. As a result, Plaintiff has incurred medical bills and endured pain and suffering, for which she seeks damages within the jurisdictional limits of this Court.

#### VII. RESPONDEAT SUPERIOR

11. Defendant KROGER and its agents, servants, and employees, who were at all times acting in the course and scope of their employment, were guilty of negligence toward Plaintiff by:

- a. Maintaining an unreasonably dangerous condition;
- b. Failing to maintain reasonably safe premises;
- c. Failing to inspect the premises in order to discover the dangerous condition on Defendants' premises;

- d. Failing to correct the dangerous condition which was created; and
- e. Failing to adequately warn invitees, including Plaintiff, that a dangerous condition existed.

#### VIII.

12. Plaintiff alleges that each and every, all and singular, of the aforementioned acts and/or omissions on the part of the Defendant and its agents, servants, and employees constitute negligence which was and is the direct and proximate cause of the injuries sustained by Plaintiff herein set out.

#### IX. DAMAGES

13. Plaintiff would show that, as a direct result of the negligence of Defendant and its agents, employees, and servants, Plaintiff was caused to suffer serious personal injuries to her body generally. As a direct and proximate result of the fall and the aforesaid negligence of Defendant, Plaintiff has incurred the following damages:

- a. Reasonable and necessary medical expenses in the past;
- b. Physical pain suffered in the past; and
- c. Physical pain which, in all reasonable probability, will be suffered in the future.

#### X. REQUEST FOR DISCLOSURE

14. Under the Tex. R. Civ. P. 194, Defendant KROGER is requested to disclose within fifty (50) days of service of this request, the information or material described in Tex. R. Civ. P. 194.2(a) through (l).

#### XI. JURY DEMAND

15. Plaintiff hereby demands a jury trial.

WHEREFORE, PREMISES CONSIDERED, Plaintiff LEVERNE FIELDS requests that Defendant KROGER be served with citation and, upon final trial of this case, the Court grant Plaintiff judgement against Defendant for the following:

- a. Actual damages against Defendant for \$750,000.00 a sum within the jurisdictional limits of this Court;
- b. Pre- and post-judgement interest at the maximum rate allowed at law;
- c. Court costs; and
- d. Such other and further relief to which Plaintiff may show herself justly entitled, at law or in equity.

Respectfully submitted,

/s/ Annette Cato-Miller

ANNETTE CATO-MILLER

State Bar No. 04011525

Law Offices of Cato-Miller,

Darensburg & Associates

11882 Greenville Avenue, Suite B101

Dallas, TX 75243

(972) 270-1896

(972) 681-9334 Telecopier

litigation@cmdlawyers.net

**ATTORNEY FOR PLAINTIFF**

**LEVERNE FIELDS**

# EXHIBIT 3

**Exhibit 3**

CAUSE NO. DC-21-00892

LEVERNE FIELDS,	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
v.	§	191ST JUDICIAL DISTRICT
	§	
THE KROGERS CO AKA	§	
KROGER TEXAS L.P.		
Defendant.	§	DALLAS COUNTY, TEXAS

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**DEFENDANT'S ORIGINAL ANSWER AND VERIFIED DENIAL**

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COMES NOW, Defendant Kroger Texas L.P., erroneously named as "The Krogers Co. aka Kroger Texas L.P." ("Defendant"), in the above-entitled and numbered cause and files this Original Answer, and, in support thereof, would respectfully show the Court as follows:

**I.  
GENERAL DENIAL**

Defendant denies each and every, all and singular, the material allegations contained in Plaintiff's Original Petition, demands strict proof thereof and, to the extent that such matters are questions of fact, says Plaintiff should prove such facts by a preponderance of the evidence to a jury if she can so do.

**II.  
VERIFIED DENIAL**

By way of verified denial pursuant to Rule 93 of the Texas Rules of Civil Procedure, that Plaintiff is entitled to recover from Defendant in the capacity in which Defendant has been sued. Defendant denies that "The Krogers Co. aka Kroger Texas L.P." operated the store at issue on the date of this incident. Consequently, Plaintiff has no right or potential right of recovery against Defendant because the proper party has not been sued. *See, e.g., Ray Malooly Trust v. Juhl*, 186 S.W.3d 568, 571 (Tex. 2006).



**III.  
DEFENSES**

1. Defendant had neither actual nor constructive knowledge of the condition about which Plaintiff complains, and further asserts that, in any event, the alleged hazard was not “unreasonably dangerous.”

2. Alternatively, Defendant provided adequate warning of the condition at issue.

3. Plaintiff’s damages or injuries, if any, were caused by the acts of third persons not under the control of Defendant. Such acts or omissions of said third persons were the sole and/or a producing and/or a proximate and/or an intervening and/or a supervening cause of Plaintiff’s damages or injuries, if any.

4. The alleged premises condition of which Plaintiff complains was already appreciated by Plaintiff, was open and obvious, was not concealed, and/or was a known risk and, therefore, Defendant denies that it owed any duty to warn Plaintiff of the alleged premises condition or protect Plaintiff from same. *Austin v. Kroger Texas L.P.*, 465 S.W.3d 193, 203 (Tex. 2015).

5. Plaintiff failed to use that degree of care and caution that would have been used by a reasonable person under the same or similar circumstances, thereby producing or proximately causing or contributing to cause Plaintiff’s injuries and damages, if any. Such acts or omissions of Plaintiff were the sole and/or a producing and/or a proximate and/or a supervening and/or an intervening cause of Plaintiff’s damages or injuries, if any.

6. In the alternative, the accident complained of was an unavoidable accident, as that term is defined under Texas law.

7. Defendant respectfully requests that the factfinder allocate responsibility, if any, among all parties, settling parties, and responsible third parties, in accordance with Chapters 32 and 33 of the Texas Civil Practice and Remedies Code.

8. In the unlikely event an adverse judgment is rendered against Defendant in this matter, Defendant respectfully prays for contribution, indemnity and/or all available credits as provided for in the Texas Civil Practice and Remedies Code and under Texas law.

9. The damages about which Plaintiff complains, if any, may have been the result of prior or pre-existing or subsequent injuries, accidents or conditions, and said prior or pre-existing or subsequent injuries, accidents or conditions were the sole and/or a contributing cause of Plaintiff's damages alleged against Defendant.

10. Plaintiff may have breached her duty to mitigate damages by failing to exercise reasonable care and diligence to avoid loss and minimize the consequences of damages.

11. Plaintiff may be malingering and/or exaggerating the nature and severity of her injuries in order to continue treatment, and accordingly, Defendant contends said treatment is not medically necessary or reasonable.

12. Any claims for medical or health care expenses incurred are limited to the amount actually paid or incurred by or on behalf of Plaintiff, pursuant to Texas Civil Practice and Remedies Code §41.0105.

13. Pursuant to Texas Civil Practice & Remedies Code § 18.091, to the extent that Plaintiff is seeking a recovery for loss of earnings, lost wages, loss of earning capacity and/or loss of contributions of pecuniary value, evidence of such alleged losses must be presented by

Plaintiff in the form of a net loss after reduction for income tax payments, or unpaid tax liability to any federal income tax law.

**IV.  
COURT REPORTER REQUESTED**

Defendant respectfully demands a court reporter be present at all proceedings before the Court.

**V.  
PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant Kroger Texas L.P., erroneously named as “The Krogers Co. aka Kroger Texas L.P.” respectfully prays that Plaintiff take nothing by this cause of action and that Defendant be permitted to recover the costs expended on its behalf. Defendant also prays for all other and further relief, both general and special, at law and in equity, to which it shows itself to be justly entitled.

Respectfully submitted,

/s/ B. Kyle Briscoe

---

**B. Kyle Briscoe**

State Bar No. 24069421

[kbriscoe@peavlerbriscoe.com](mailto:kbriscoe@peavlerbriscoe.com)

**Michael W. Stumbaugh**

State Bar No. 24041987

[mstumbaugh@peavlerbriscoe.com](mailto:mstumbaugh@peavlerbriscoe.com)

**PEAVLER | BRISCOE**

2215 Westgate Plaza

Grapevine, Texas 76051

214-999-0550 (telephone)

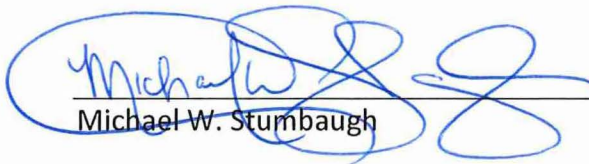
214-999-0551 (fax)

**ATTORNEYS FOR DEFENDANT**

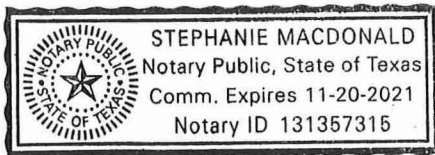
**VERIFICATION**

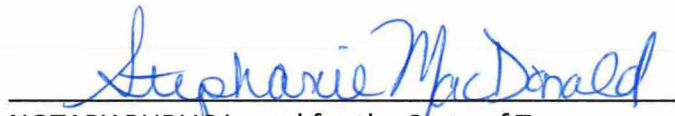
STATE OF TEXAS                   §  
   §  
COUNTY OF TARRANT         §

Before me, the undersigned authority, did personally appear Michael W. Stumbaugh, who upon his oath deposes and says that he is one of the attorneys for Defendant, that he has never been convicted of a felony or a crime of moral turpitude, and that he is over the age of 18 and competent to make this verification. Accordingly, Mr. Stumbaugh verifies that the facts alleged in Section II. Verified Denial of the foregoing pleading are within his personal knowledge and are true and correct.

  
Michael W. Stumbaugh

Subscribed and sworn to before me on this 5<sup>th</sup> day of February 2021.



  
NOTARY PUBLIC in and for the State of Texas

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record pursuant to and in accordance with the Texas Rules of Civil Procedure on February 5, 2021.

/s/ B. Kyle Briscoe  
B. Kyle Briscoe

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Bryan Briscoe on behalf of Bryan Briscoe  
Bar No. 24069421  
kbriscoe@peavlerbriscoe.com  
Envelope ID: 50391502  
Status as of 2/5/2021 2:48 PM CST

## Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
ANNETTE CATO-MILLER		litigation@cmdlawyers.net	2/5/2021 10:45:40 AM	SENT
Michael Stumbaugh		mstumbaugh@peavlerbriscoe.com	2/5/2021 10:45:40 AM	SENT
Kyle Briscoe		kbriscoe@peavlerbriscoe.com	2/5/2021 10:45:40 AM	SENT
Joy Rose		JRose@PeavlerBriscoe.com	2/5/2021 10:45:40 AM	SENT
Liz Contreras		econtreras@peavlerbriscoe.com	2/5/2021 10:45:40 AM	SENT